XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(12)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.No. 04 of 2006

APPELLANT CLAIMANT : Smt. Urmila Bai aged about 48 years, Wd/o Late Sardar Singhaniya, Occupation House wife, Resident of D/136, Sector 4, Devendra Nagar, Raipur, Tehsil and Distt. Raipur (C.G.)

VERSUS

RESPONDENTS

1. Girvar Prasad Sharma, aged about 43 years, son of P.P. Sharma, occupation Driver, Resident of Kasayeepara, Rajnandgaon, Tahsil and District Rajnandgaon (C.G.)

2. Mohd. Allanoor, son of Mohd. Gaffoor, occupation Vehicle owner, resident of Indira Chowk, Ward No. 41, Rajnandgaon, Tah & Distt. Rajnandgaon (C.G.)

3. The National Insurance Company Limited, Branch Office Kamthi Line, Rajnandgaon, through – Divisional Manager, Divisional Office Mobin Mahal, G.E. Road, Raipur (C.G.)

4. Smt. Sarla Deewan, wife of Shri Jai Prakash Deewan, resident of Koshanagar, Bhilai, Distt. Durg (C.G.)

5. Smt. Savitri Agrawal, wife of Shri Satyanarayan Agrawal, resident of

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near Maurya Talkies, Bhilai, Distt. Durg (C.G.)

6. Kailash Singhaniya, son of Late Shri Sardarmal Singhaniya, Resident of Devendra Nagar, Raipur (C.G.)

7. Subhash Singhaniya, son of Late Sardarmal Singhaniya, Devendra Nagar, Sector 4 Raipur (C.G)

8. Ajay Singhaniya, son of Late Sardar Mal Singhaniya Sector I, Devendra Nagar, Raipur (C.G.)

9. Harish Singhaniya, son of Late Sardarmal Singhaniya, R/o Devendra Nagar, Sector 4, Raipur (CG)

Present:

Shri G.S. Agrawal, Sr. Advocate with Shri K.R. Nair counsel for the appellant.

Shri Raj Awasthi, counsel for the respondent No. 3/Insurer.

ORDER

(13th July 2007)

Dhirendra Mishra, J

The appellant has preferred this appeal against the award dated 17.10.2005 passed by learned III Additional Motor Accident Claims Tribunal, Raipur in claim case No. 21/2004 whereby a sum of Rs. 67,000/- with interest at the rate of 6% per annum from the date of application i.e. 19.12.2003, has been awarded as

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compensation towards the death of her husband namely Sardarmal Singhaniya who died in the motor vehicle accident dated 16.7.2003 and liability has been fastened upon respondent No.3/insurer.

Learned counsel for the appellant submits that the learned claims tribunal on the basis of apparent age of the claimant which has been assessed as 65 years, has held that the deceased must not have been less than 65 years of age and accordingly, applying multiplier of 5, the compensation has been assessed ignoring the evidence available on record in the shape of postmortem report of the deceased in which his age has been shown as 50 years. It is further contended that the dependency has been assessed after deducting 50% towards personal expenditure of the deceased from his annual income of Rs.24,000/- in place of 1/3rd as is usual practice.

On the other hand, learned counsel for the respondent No.3/insurer submitted that the basis for assessing age of the deceased is proper and compensation has been awarded in accordance with law, which does not call for interference.

I have heard learned counsel for the parties and perused the evidence available on record including the impugned award.

From deposition of the claimant, it is seen that her apparent age has been assessed by the tribunal as 65 years. She has been

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cross-examined by respondent No. 3 in which she has stated that his youngest child is 25 years old, she gave birth to six children with an age difference of 2 years and his eldest daughter is Sarla Deewan. She has denied the suggestion that age of her husband was 71 years. If we consider the evidence available on record, we find that in the postmortem report the doctor has opined age of the deceased as 50 years. Therefore, considering the statements of the claimant and also considering the postmortem report of the deceased, it would be appropriate if the compensation is assessed by taking the age of deceased as 55 years.

In the result, the appeal is allowed. Amount of compensation payable to the appellant/claimant is assessed by considering the annual income of the deceased at Rs. 24,000/- and making allowance of Rs.8,000/- per annum therefrom towards personal expenditure of the deceased, as such taking annual dependency at the rate of Rs.16,000/- and applying multiplier of 11, the compensation towards loss of dependency is assessed at Rs.1,76,000/-, in addition to a sum of Rs.2,000/- already awarded by the tribunal towards funeral expenses and Rs.5,000/- towards loss of consortium. Thus, a total sum of Rs. 1,83,000/- is assessed as compensation. Since Rs. 67,000/- has already been awarded by learned claims tribunal, the appellant/claimant is entitled for an additional amount of Rs. 1,16,000/-. This amount shall carry interest @ 6% per annum from the date of application i.e.19.12.2003.

Sd/-
Dhirendra Mishra
Judge

KI